

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7986 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? No.

2. To be referred to the Reporter or not? No.

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3. Whether Their Lordships wish to see the fair copy of the judgement? No.

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No.

5. Whether it is to be circulated to the Civil Judge? No.

JITENDRABHAI RATILAL GANATRA

Versus

JOINT MANAGER (PD-RAJKOT)

Appearance:

MR PR NANAVALI for Petitioner

MR DG CHAUHAN for Respondent No. 1 & 2.

MR KK NAIR for Respondent No. 3

CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 30/10/96

ORAL JUDGEMENT

Rule. Mr. D.G. Chauhan waives service of rule

for respondent no.1 and 2. Mr. K. K. Nair, learned Advocate waives service of rule for respondent no.3. With consent of the parties the matter is taken up for hearing to-day.

2. The petitioner filed the petition mainly on the ground that because of the financial difficulties which he is facing respondents nos. 1 and 2 may be directed to accept the amount of their dues by instalments.

3. To show the bonafide the petitioner has already deposited Rs.5,00,000/- with respondent GSFC at Rajkot office on 29-10-1996.

4. In the facts and circumstances of the case, it will meet with the ends of justice if the following order is passed.

The petitioner is liable to pay Rs.22,73,250/- as on date, to Respondent no.1 out of which Rs.5,00,000/has been deposited by the petitioner as aforesaid and for remaining amount it is directed to the petitioner to pay the same in the following manner:-

1. The first instalment of Rs.5,00,000/- should be paid by 15-1-1997.
2. Another 10 lacs of Rupees should be paid by 5 equal monthly instalments of Rs.2,00,000/- each, first such instalment should commence from 15-2-1997 and thereafter on each 15th day of subsequent month.
3. The remaining amount should be paid on or before 30-7-1997. However, if the petitioner pays the instalment as mentioned in clause (1) & (2) above without any default the G.S.F.C. may consider to forego the amount of penalty at the time of payment of last instalment and in that case that amount should be deducted from the total amount of dues.

It is directed that if the petitioner makes any 2 default in making the payment as directed above, the G.S.F.C. will be at liberty to take appropriate action u/s 29 of the State Financial Corporation Act.

It is further clarified that the petitioner should not transfer, sale or create any charge thereon on the property in question till the entire payment as aforesaid is made. The petitioner is also directed to

file undertaking before this Hon'ble Court in terms of this order on or before 4-11-1996.

4. In view of the above directions the respondent is directed to restore the possession of the property in question immediately on receipt of this order.

5. At the request of learned Advocate Mr. P.R. Nanavati, for the petitioner it is permitted to communicate operative part of the order telephonically at Rajkot office of the G.S.F.C. at the cost of the petitioners so that they may not proceed with the auction.

6. Rule is made absolute to the aforesaid extent, with no order as to costs.

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